

Todd M. Friedman (SBN 216752)
Adrian R. Bacon (SBN 280332)
Meghan E. George (SBN 274525)
Thomas E. Wheeler (SBN 308789)
LAW OFFICES OF TODD M. FRIEDMAN, P.C.
21550 Oxnard St., Suite 780
Woodland Hills, CA 91367
Phone: 877-206-4741
Fax: 866-633-0228
tfriedman@toddflaw.com
abacon@toddflaw.com
mgeorge@toddflaw.com
twheeler@toddflaw.com
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHRISTINA BURRELL, individually) Case No.
and on behalf of all others similarly)
situated,)

Plaintiff,) **COMPLAINT FOR VIOLATIONS**
) **OF:**

vs.)

FRONTIER COMMUNICATIONS)
CORPORATION, and DOES 1 through)
10, inclusive, and each of them,)
Defendant.)

1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT, 47 U.S.C. §227(b)
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT, 47 U.S.C. §227(b)
3. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT, 47 U.S.C. §227(c)
4. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT, 47 U.S.C. §227(c)

DEMAND FOR JURY TRIAL

1 Plaintiff CHRISTINA BURRELL (“Plaintiff”), individually and on behalf
 2 of all others similarly situated, alleges the following upon information and belief
 3 based upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others
 6 similarly situated seeking damages and any other available legal or equitable
 7 remedies resulting from the illegal actions of FRONTIER COMMUNICATIONS
 8 CORPORATION (“Defendant”), in negligently, knowingly, and/or willfully
 9 contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone
 10 Consumer Protection Act, 47 *U.S.C.* § 227 *et seq.* (“TCPA”), thereby invading
 11 Plaintiff’s privacy.

12 **JURISDICTION & VENUE**

13 2. Jurisdiction is proper under 28 *U.S.C.* § 1331 because Plaintiff alleges
 14 violations of federal law, in particular the Telephone Consumer Protection Act, 47
 15 *U.S.C.* § 227 *et seq.*

16 3. Venue is proper in the United States District Court for the Central
 17 District of California pursuant to 28 *U.S.C.* § 1391(b)(2) because Defendant does
 18 business within the State of California and within this district, and the events giving
 19 rise to this action took place within this district.

20 **PARTIES**

21 4. Plaintiff, CHRISTINA BURRELL (“Plaintiff”), is a natural person
 22 residing in Long Beach, California and is a “person” as defined by 47 *U.S.C.* § 153
 23 (39).

24 5. Defendant, FRONTIER COMMUNICATIONS CORPORATION
 25 (“Defendant”) is a national communications company, and is a “person” as defined
 26 by 47 *U.S.C.* § 153 (39).

27 6. The above named Defendant, and its subsidiaries and agents, are
 28 collectively referred to as “Defendants.” The true names and capacities of the

1 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
2 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
3 names. Each of the Defendants designated herein as a DOE is legally responsible
4 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
5 Complaint to reflect the true names and capacities of the DOE Defendants when
6 such identities become known.

7 7. Plaintiff is informed and believes that at all relevant times, each and
8 every Defendant was acting as an agent and/or employee of each of the other
9 Defendants and was acting within the course and scope of said agency and/or
10 employment with the full knowledge and consent of each of the other Defendants.
11 Plaintiff is informed and believes that each of the acts and/or omissions complained
12 of herein was made known to, and ratified by, each of the other Defendants.

13 **FACTUAL ALLEGATIONS**

14 8. Beginning in or around January of 2017, Defendant contacted Plaintiff
15 on Plaintiff's cellular telephone number ending in -5329, in an attempt to solicit
16 Plaintiff to purchase Defendant's products.

17 9. Defendant continued to numerously call Plaintiff's cellular telephone
18 in excess of twenty (20) times, calling multiple times in a single day, and left
19 multiple voice messages.

20 10. Defendant used an "automatic telephone dialing system", as defined
21 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiff seeking to solicit its services.

22 11. The numerosity and pattern of calls received by Plaintiff is also
23 indicative of an automatic telephone dialing system.

24 12. Defendant contacted or attempted to contact Plaintiff from telephone
25 numbers (800) 921-8101.

26 13. Defendant's calls constituted calls that were not for emergency
27 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

28 14. Defendant's calls were placed to telephone number assigned to a

cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to *47 U.S.C. § 227(b)(1)*.

15. During all relevant times, Defendant did not possess Plaintiff's "prior express consent" to receive calls using an automatic telephone dialing system or an artificial or prerecorded voice on her cellular telephone pursuant to *47 U.S.C. § 227(b)(1)(A)*.

16. Additionally, based off the pattern and content of the calls, Plaintiff alleges that Defendant did not have in place procedures for the maintenance of an internal do-not-call list for telemarketing purposes in violation of *47 U.S.C. § 227(c)*, which incorporates the provisions of *47 C.F.R. 64.1200(d)*.

17. Further, in one of Defendant's initial calls to Plaintiff, Plaintiff explicitly requested that Defendant cease calling Plaintiff and that Defendant place Plaintiff on Defendant's internal do-not-call list.

18. Despite the aforementioned requests, Defendant continued to call Plaintiff for the purpose of marketing and solicitation.

19. Through this action, Plaintiff suffered an invasion of a legally protected interest in privacy, which is specifically addressed and protected by the TCPA.

20. Defendant's calls forced Plaintiff and class members to live without the utility of their cellular phones by forcing Plaintiff and class members to silence their cellular phones and/or block incoming numbers.

CLASS ALLEGATIONS

21. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member of the proposed class (hereafter "The Class") defined as follows:

All persons within the United States who received any solicitation/telemarketing telephone calls from

1 Defendant to said person's cellular telephone made
2 through the use of any automatic telephone dialing
3 system or an artificial or prerecorded voice and such
4 person had not previously consented to receiving such
5 calls within the four years prior to the filing of this
6 Complaint

7 22. Plaintiff represents, and is a member of, The Class, consisting of All
8 persons within the United States who received any collection telephone calls from
9 Defendant to said person's cellular telephone made through the use of any
10 automatic telephone dialing system or an artificial or prerecorded voice and such
11 person had not previously not provided their cellular telephone number to
12 Defendant within the four years prior to the filing of this Complaint.

13 23. Defendant, its employees and agents are excluded from The Class.
14 Plaintiff does not know the number of members in The Class, but believes the Class
15 members number in the thousands, if not more. Thus, this matter should be
16 certified as a Class Action to assist in the expeditious litigation of the matter.

17 24. The Class is so numerous that the individual joinder of all of its
18 members is impractical. While the exact number and identities of The Class
19 members are unknown to Plaintiff at this time and can only be ascertained through
20 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
21 The Class includes thousands of members. Plaintiff alleges that The Class
22 members may be ascertained by the records maintained by Defendant.

23 25. Plaintiff and members of The Class were harmed by the acts of
24 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
25 and Class members via their cellular telephones thereby causing Plaintiff and Class
26 members to incur certain charges or reduced telephone time for which Plaintiff and
27 Class members had previously paid by having to retrieve or administer messages
28 left by Defendant during those illegal calls, and invading the privacy of said
Plaintiff and Class members.

1 26. Common questions of fact and law exist as to all members of The
2 Class which predominate over any questions affecting only individual members of
3 The Class. These common legal and factual questions, which do not vary between
4 Class members, and which may be determined without reference to the individual
5 circumstances of any Class members, include, but are not limited to, the following:

- 6 a. Whether, within the four years prior to the filing of this
7 Complaint, Defendant made any telemarketing/solicitation call
8 (other than a call made for emergency purposes or made with
9 the prior express consent of the called party) to a Class member
10 using any automatic telephone dialing system or any artificial
11 or prerecorded voice to any telephone number assigned to a
12 cellular telephone service;
- 13 b. Whether Defendant maintained adequate internal do-not-call
14 policies, training, and provisions as is required under *47 U.S.C.*
15 *§ 227(c)*, incorporating the specific requirements of *47 C.F.R.*
16 *64.1200(d)*.
- 17 c. Whether Plaintiff and the Class members were damages
18 thereby, and the extent of damages for such violation; and
- 19 d. Whether Defendant should be enjoined from engaging in such
20 conduct in the future.

21 27. As a person that received numerous telemarketing/solicitation calls
22 from Defendant using an automatic telephone dialing system or an artificial or
23 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
24 claims that are typical of The Class.

25 28. Plaintiff will fairly and adequately protect the interests of the members
26 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
27 class actions.

28 29. A class action is superior to other available methods of fair and

1 efficient adjudication of this controversy, since individual litigation of the claims
 2 of all Class members is impracticable. Even if every Class member could afford
 3 individual litigation, the court system could not. It would be unduly burdensome
 4 to the courts in which individual litigation of numerous issues would proceed.
 5 Individualized litigation would also present the potential for varying, inconsistent,
 6 or contradictory judgments and would magnify the delay and expense to all parties
 7 and to the court system resulting from multiple trials of the same complex factual
 8 issues. By contrast, the conduct of this action as a class action presents fewer
 9 management difficulties, conserves the resources of the parties and of the court
 10 system, and protects the rights of each Class member.

11 30. The prosecution of separate actions by individual Class members
 12 would create a risk of adjudications with respect to them that would, as a practical
 13 matter, be dispositive of the interests of the other Class members not parties to such
 14 adjudications or that would substantially impair or impede the ability of such non-
 15 party Class members to protect their interests.

16 31. Defendant has acted or refused to act in respects generally applicable
 17 to The Class, thereby making appropriate final and injunctive relief with regard to
 18 the members of the Class as a whole.

19 **FIRST CAUSE OF ACTION**

20 **Negligent Violations of the Telephone Consumer Protection Act**

21 **47 U.S.C. §227(b)**

22 32. Plaintiff repeats and incorporates by reference into this cause of
 23 action the allegations set forth above at Paragraphs 1-31.

24 33. The foregoing acts and omissions of Defendant constitute numerous
 25 and multiple negligent violations of the TCPA, including but not limited to each
 26 and every one of the above cited provisions of 47 U.S.C. § 227(b).

27 34. As a result of Defendant's negligent violations of 47 U.S.C. § 227(b),
 28 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory

1 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

2 35. Plaintiff and the Class members are also entitled to and seek
3 injunctive relief prohibiting such conduct in the future.

4 **SECOND CAUSE OF ACTION**

5 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
6 **Act**

7 **47 U.S.C. §227 et seq.**

8 36. Plaintiff repeats and incorporates by reference into this cause of
9 action the allegations set forth above at Paragraphs 1-31.

10 37. The foregoing acts and omissions of Defendant constitute numerous
11 and multiple knowing and/or willful violations of the TCPA, including but not
12 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*.

13 38. As a result of Defendant's knowing and/or willful violations of *47*
14 *U.S.C. § 227(b)*, Plaintiff and the Class members are entitled an award of
15 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
16 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

17 39. Plaintiff and the Class members are also entitled to and seek
18 injunctive relief prohibiting such conduct in the future.

19 **THIRD CAUSE OF ACTION**

20 **Negligent Violations of the Telephone Consumer Protection Act**

21 **47 U.S.C. §227(c)**

22 40. Plaintiff repeats and incorporates by reference into this cause of
23 action the allegations set forth above at Paragraphs 1-31.

24 41. The foregoing acts and omissions of Defendant constitute numerous
25 and multiple negligent violations of the TCPA, including but not limited to each
26 and every one of the above cited provisions of *47 U.S.C. § 227(c)*.

27 42. As a result of Defendant's negligent violations of *47 U.S.C. § 227(c)*,
28 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory

1 damages, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5).

2 43. Plaintiff and the Class members are also entitled to and seek
3 injunctive relief prohibiting such conduct in the future.

4 **FOURTH CAUSE OF ACTION**

5 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
6 **Act**

7 **47 U.S.C. §227(c)**

8 44. Plaintiff repeats and incorporates by reference into this cause of
9 action the allegations set forth above at Paragraphs 1-31.

10 45. The foregoing acts and omissions of Defendant constitute numerous
11 and multiple knowing and/or willful violations of the TCPA, including but not
12 limited to each and every one of the above cited provisions of 47 U.S.C. § 227(c).

13 46. As a result of Defendant's knowing and/or willful violations of 47
14 U.S.C. § 227(c), Plaintiff and the Class members are entitled an award of
15 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C.
16 § 227(c)(5).

17 47. Plaintiff and the Class members are also entitled to and seek
18 injunctive relief prohibiting such conduct in the future.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

21 **FIRST CAUSE OF ACTION**

22 **Negligent Violations of the Telephone Consumer Protection Act**

23 **47 U.S.C. §227(b)**

- 24 • As a result of Defendant's negligent violations of 47 U.S.C.
25 §227(b)(1), Plaintiff and the Class members are entitled to and
26 request \$500 in statutory damages, for each and every violation,
27 pursuant to 47 U.S.C. 227(b)(3)(B).
28 • Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b)

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

THIRD CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendant's negligent violations of 47 U.S.C. §227(c)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(c)(5).
- Any and all other relief that the Court deems just and proper.

FOURTH CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(c)

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(c)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(c)(5).
- Any and all other relief that the Court deems just and proper.

JURY DEMAND

48. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 1st day of March, 2017.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff